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PETITION TO REVOKE KAUFMAN §
COUNTY DEVELOPMENT DISTRICT §
NO. 1'S CERTIFICATE OF §
CONVENIENCE AND NECESSITY §
UNDER TEXAS WATER CODE § 13.254 §
AND 16 TEXAS ADMINISTRATIVE §
CODE § 24.245 §

PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

DEFAULT ORDER

This Default Order addresses Commission Staff's petition to revoke Kaufman County Development District No. 1's certificate of convenience and necessity (CCN) for violations of the Texas Water Code (TWC) and Commission rules. The Commission grants the petition, by default, and revokes Kaufman County Development District No. 1's CCN number 12944.

I. Findings of Fact

The Commission makes the following findings of fact.

CCN Holder

1. Kaufman County Development District No. 1 (the district) was created by the Kaufman County Commissioners' Court on July 23, 1996, under the authority of Texas Tax Code chapter 312.¹
2. In December 2003, the Texas Commission on Environmental Quality (TCEQ) issued CCN number 12944 to the district.
3. As the holder of CCN number 12944, the district is obligated to provide continuous and adequate water service to customers within the boundaries of its certificated service area in Kaufman County.
4. On May 8, 2017, the Kaufman County Commissioners' Court ordered the dissolution of the district, under the authority of Texas Local Government Code chapter 383. As a result, the district no longer exists.

¹ In 1997, the relevant provisions of Texas Tax Code chapter 312 were relocated to Texas Local Gov't Code chapter 383. See, Acts of 1997, 75th Legs. R.S., ch. 165, eff. Sept. 1, 1997.

Commission Staff's Petition

5. On June 14, 2023, Commission Staff filed its petition in this proceeding in which it seeks to revoke the district's CCN number 12944 because it has failed to provide continuous and adequate water service in its certificated service area.
6. A Commission Staff review of records related to CCN number 12944 indicates that the district is not providing water utility service to customers, and any facilities previously used to provide continuous and adequate water service, if any ever existed, are no longer active.
7. A Commission Staff investigation of TCEQ records indicates that no public water system is associated with CCN number 12944.
8. The district has not paid the TCEQ its required regulatory assessment fee since 2018.
9. The district has no water customers, does not provide water utility service, and is incapable of providing continuous and adequate water service to customers in its certificated service area.

Notice

10. According to the Commission's records, there are three last known addresses for the district:
 - Kaufman County Development District No. 1
3100 McKinnon Street, Suite 1100
Houston, TX 75201-1033
 - Kaufman County Development District No. 1
600 N. Pearl Street, Suite 900
Dallas, TX 75201-2872
 - Kaufman County MUD 11
P.O. Box 80
Tomball, TX 77377-0080
11. On June 14, 2023, Commission Staff sent a copy of the petition to the three last known addresses in the Commission's records for the district listed above by certified mail.

12. The petition notified the district of the legal authority and the Commission's jurisdiction over this matter, cited to particular sections of the statutes and rules involved, and provided a statement of the factual allegations.
13. The petition also notified the district that it was entitled to request a hearing within 30 days after service of the petition, and included the following admonition in at least 12-point, bold-faced type:

In accordance with 16 TAC § 22.183, Commission Staff hereby notifies Kaufman County Development District No. 1 that the factual allegations in this petition could be deemed admitted and the relief sought herein granted by default if Kaufman County Development District No. 1 fails to request a hearing within 30 days after service of this petition.

Evidentiary Record

14. In Order No. 1 filed on July 28, 2023, the administrative law judge (ALJ) admitted the following into evidence:
 - a. Commission Staff's petition to revoke the district's CCN and notice of opportunity for a hearing, including Staff Exhibits 1 through 6 attached thereto, filed on June 14, 2023; and
 - b. The affidavit of Rosa Ramirez and supporting documents which are marked as Staff Exhibit 7 and attached to Commission Staff's second motion to admit evidence filed on July 24, 2023.

Motion for Disposition by Default

15. On July 24, 2023, Commission Staff filed a motion for entry of a default order.
16. On July 24, 2023, Commission Staff sent a copy of the motion for default to the three last known addresses in the Commission's records for the district listed above by certified mail.

Grounds for Default

17. More than 30 days have passed since service of the petition on the district.
18. The district did not request a hearing on the merits and did not respond to the petition.
19. More than 10 days have passed since service of the motion for default.

20. The district did not respond to the motion for default.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this petition under TWC § 13.254.
2. Prior to its dissolution, the district was a retail public utility, as that term is defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Under TWC § 13.250(a) and 16 TAC § 24.247(a), the district, as a retail public utility and holder of CCN number 12944, is obligated to serve every customer and every qualified applicant for service within its certificated service area, and such service must be continuous and adequate service within the area.
4. Because the district is not providing and is incapable of providing continuous and adequate service in its certificated service area in violation of TWC § 13.250(a) and 16 TAC § 24.247(a), the Commission is entitled to revoke CCN number 12944 under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A).
5. Adequate notice was provided to the district in compliance with Texas Government Code §§ 2001.052 and 2001.054 and 16 TAC § 22.183(b).
6. The district failed to request a hearing within 30 days of service of the notice of an opportunity for a hearing, as provided in 16 TAC § 22.183(a).
7. The requirements for disposition by default in 16 TAC § 22.183 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.


1. The Commission deems the factual allegations in Commission Staff's petition as true.
2. The Commission takes official notice of its records that contain the last-known addresses of the district.

3. The Commission grants Commission Staff's motion for a default order and revokes the district's CCN number 12944.
4. The Commission is not constrained in any manner from requiring additional action or penalties for violations that are not raised here.
5. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 28th day of September 2023.

PUBLIC UTILITY COMMISSION OF TEXAS


KATHLEEN JACKSON, INTERIM CHAIRMAN


WILL MCADAMS, COMMISSIONER


LORI COBOS, COMMISSIONER


JIMMY GLOTFELTY, COMMISSIONER